

**REMARKS**

This paper is filed responsive to the Office Action mailed May 12, 2009. Claims 1-15 are pending in the application. Claims 1-10, 12-13 and 15 are amended. No new matter is added.

The Examiner has stated that the drawings must show every feature of the invention specified in the claims, and objected to the drawings under 37 CFR 1.83(a). The Examiner objects to the terms “clamp” and “actuator” as not being shown in the Figures. Applicants submit that each term is shown in the Figures and described in the specification such that one skilled in the art understands the meaning of the terms. Applicants have amended the claims to more clearly define the invention and the claims no longer include “the clamp” as an element. As a result, the objection to the claimed “clamp” element is moot.

As to the term “actuator”, Applicants submit that the specification clearly describes the actuator:

Preferably, the assembly includes *an actuator* by which the frame clamping surfaces and the drill guide clamping surfaces of each of the lower and upper pairs can be forced together. Preferably, *the actuator comprises a threaded nut*. The threaded nut can act against a washer which provides one of the upper clamping surfaces, to force it towards the other of the upper clamping surfaces. For example, when the washer is provided on the drill guide sleeve, *an actuator nut* can be provided on an threaded external surface of the sleeve. It is an advantage of the assembly of the invention that adequate clamping forces can be applied through a threaded nut without having to use an elongate arm tool.

Paragraph 0015 of U.S. Patent Application Publication No. 2007/0276400 (“the current application”). The “nut” is indicated in paragraphs 0045-0047 of the current application as element 39, which is depicted in Figures 3 and 4. As a result, “the actuator” is shown in the Figures, and Applicants request withdrawal of the objection.

The Examiner objected to the abstract, three informalities and the lack of headings within the Specification. Applicants have supplied a new Abstract, has amended the specification to correct the spelling of “finalized” and the errors in the reference numbers for the

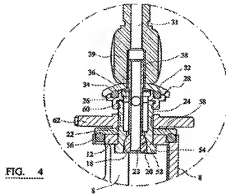
“sleeve” and “leg” terms, and has amended the Specification to add appropriate headings. Applicants request withdrawal of the objections.

Claims 1-15 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the limitations “the internal wall”, “the frame clamping surfaces”, and “the drill guide clamping surfaces” lack sufficient antecedent basis. Applicants have amended the claims, and these terms are no longer recited. As a result, Applicants submit that the rejection is moot.

Claims 1-3 and 8-13 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,595,999 (Marchione). Applicants traverse the rejection.

Claim 1 claims a drill guide assembly that comprises a drill guide that includes a sleeve and a bulb at one end of the sleeve; a frame fastenable to the bone comprising a housing having an internal surface that defines a recess, the recess being configured to receive the bulb such that the drill guide sleeve extends out of the recess in a direction away from the bone, the drill guide and housing being movable relative to one another from a first position, where the angular orientation of the drill guide sleeve relative to the housing can be adjusted by movement of the bulb within the recess, to a second position, where the bulb of the drill guide contacts the internal surface of the housing; an upper clamping surface carried on the drill guide; and a lower clamping surface carried on the housing, the upper clamping surface and lower clamping surface configured to contact one another when the drill guide and the housing are moved from the first position to the second position, the upper clamping surface being spaced apart from the bulb along the drill guide sleeve.

One embodiment of the claimed invention is depicted in detail in Figure 4 of the current application:



Paragraphs 41-44 of the current application, describes the embodiment depicted in Figure 4 as having, among other elements, a sleeve 14; a bulb 18; a housing 22 having a recess 20; a collar 26 having a clamping surface 28. “The drill guide sleeve 14 has a washer 34 positioned on it which provides a clamping surface 36 facing towards the clamping surface 28 on the collar 26.” Paragraph 0044 of the current application. As is shown in Figure 4, clamping surface 28 is spaced apart from bulb 18.

Turning to the prior art, Marchione fails to disclose each element of claim 1. Marchione does not describe at least the limitations of “an upper clamping surface carried on the drill guide” and “a lower clamping surface carried on the housing”, where “the upper clamping surface and lower clamping surface [are] configured to contact one another when the drill guide and the housing are moved from the first position to the second position, the upper clamping surface being spaced apart from the bulb along the drill guide sleeve.”

Marchione provides a drill guide that permits angular adjustment of the drill axis. As is described in the background of the current application at paragraph [0004], Marchione

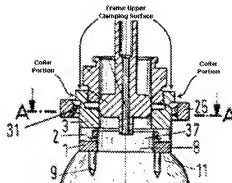
“discloses a drilling jig which includes a drill guide tube with a rounded head which is supported in a housing. The head is able to pivot within the housing so that the axial orientation of the drill guide tube relative to the housing can be adjusted. The tube can be clamped against adjustment. The clamp comprises upper and lower housing parts which can be drawn together so as to

grip the rounded head of the clamp on opposite sides thereof (see FIGS. 6 and 10). A transverse arm can be used to obtain high clamping forces.

The clamping mechanism of Marchione, however, may not provide for sufficient force to clamp the head 7 “to prevent movement of the drill guide when the jig is in use”. Marchione relies on the force generated between head 7 and clamping elements 5 only to fix the orientation of guide tube 6. There is no additional clamping surface that is spaced apart along the drill guide sleeve from the head 7 and clamping elements 5.

Thus, Marchione lacks at least the last two claimed paragraphs of claim 1—the upper clamping surface carried on the drill guide and the lower clamping surface carried on the housing, where the upper clamping surface and lower clamping surface are configured to contact one another when the drill guide and the housing are moved from the first position to the second position, and where the upper clamping surface is spaced apart from the bulb along the drill guide sleeve.

The Examiner suggests that Marchione discloses an upper clamping surface shown in the annotated figure 5 of Marchione below:



The surface labeled “Collar Portion” is part of housing 3. Housing 3 has an inner thread which mates with the outer thread of first clamping elements 5. That aspect of housing 3 that is labeled “Frame Upper Clamping Surface” does not clamp anything and thus this surface cannot, as is claimed in claim 1, be configured along with the lower clamping surface “to contact one another

when the drill guide and the housing are moved from the first position to the second position”. In fact, there is no surface in Marchione that is spaced apart from the bulb that describes “an upper clamping surface” as claimed. That is, there is no surface that is spaced apart from the head 7 of Marchione that is “carried on the drill guide” and that is configured, along with the lower clamping surface, “to contact one another when the drill guide and the housing are moved from the first position to the second position.” The first position as is described in claim 1 is “where the angular orientation of the drill guide sleeve relative to the housing can be adjusted by movement of the bulb within the recess” and the second position is “where the bulb of the drill guide contacts the internal surface of the housing”.

Because Marchione does not describe the above-described limitations of claim 1, Applicants submit that Marchione does not anticipate claim 1. The claims that depend from claim 1 are also patentable over Marchione in their own right, but at least because they depend from claim 1. As a result, Applicants request that the Examiner withdraw the rejection.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marchione in view of U.S. Patent No. 3,627,334 (Reddy); claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marchione; claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marchione in view of U.S. Patent Publication No. 2006/0271058 (Ashton); and claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marchione in view of U.S. Patent No. 6,258,097 (Cook). Applicants traverse the rejections.

Applicants submit that claims 4-6, 7, 14 and 15 depend from claim 1, and thus are patentable at least because they depend from claim 1. As a result, Applicants request that the Examiner withdraw the rejections.

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Respectfully submitted,

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